

# **EXHIBIT 18**

**Simmons, Justin**

---

**From:** Simmons, Justin <jsimmons@woodsrogers.com>  
**Sent:** Monday, November 14, 2022 2:59 PM  
**To:** 'Scott Fitzsimmons'; 'Kathy Barnes'; 'Brandon Regan'; 'Edward Parrott'  
**Cc:** 'Conley, Todd'; 'Golimowski, Jeff'; Treece, Joshua; Hollis, Jon; Stemland, Karen  
**Subject:** RE: BAE v. Fluor - Case No. 7:20-CV-00587 - First Round of Depositions  
**Attachments:** BAE v. Fluor - Notice of Deposition - Thomas D'Agostino (11.14.22).pdf

Hi, Scott,

Attached is a notice of deposition for Thomas D'Agostino who will be deposed in Falls Church on December 20. Fluor must produce Mr. D'Agostino for deposition under the Federal Rules of Civil Procedure, since he is a current officer, director, or manager of the company. (His LinkedIn profile shows that he is still the President of Fluor's Government Group.) If Fluor contends that he is not a current officer, director, or managing agent, then please provide support for that contention, including, but not limited to, the date of his separation from the company and the name of his current employer.

Best,

Justin

---

**From:** Simmons, Justin  
**Sent:** Tuesday, November 8, 2022 3:07 PM  
**To:** Scott Fitzsimmons <sfitzsimmons@watttieder.com>; Kathy Barnes <kbarnes@watttieder.com>; Brandon Regan <bregan@watttieder.com>; Edward Parrott <eparrott@watttieder.com>  
**Cc:** 'Conley, Todd' <Todd.Conley@wbd-us.com>; 'Golimowski, Jeff' <Jeff.Golimowski@wbd-us.com>; Treece, Joshua <jtreece@woodsrogers.com>; Hollis, Jon <jhollis@woodsrogers.com>; Stemland, Karen <kstemland@woodsrogers.com>  
**Subject:** RE: BAE v. Fluor - Case No. 7:20-CV-00587 - First Round of Depositions

Hi, Scott,

Fluor's months-long delay in letting BAE know that Fluor will not or cannot produce three key Fluor witnesses without subpoena is problematic, to say the least. Fluor has known since at least July 21 that BAE intended to depose Thomas D'Agostino, Kent Smith, and Robert Griffith, and yet Fluor waited until yesterday to inform BAE that Fluor would not or could not produce them and that they are represented by separate counsel. Please confirm by close of business tomorrow, Nov. 9, whether D'Agostino, Smith, and Griffith are current employees of Fluor Corp. or one of its subsidiaries, including, but not limited, to Fluor Federal Solutions, LLC; and, if they are, please explain why Fluor will not or cannot produce them for deposition. If they are no longer employees of Fluor Corp. or one of its subsidiaries, then please provide their dates of separation and last-known addresses.

Fluor's failure to timely inform BAE that Fluor will not or cannot produce D'Agostino, Smith, and Griffith has greatly prejudiced BAE and jeopardized the agreed-upon deposition schedule. BAE reserves the right to seek appropriate relief from the Court because of this failure.

BAE will depose Robert Legler on November 18, Tom Moran on December 13, and Jim Worcester on December 23.

Best,

Justin

---

**From:** Scott Fitzsimmons <[sfitzsimmons@watttieder.com](mailto:sfitzsimmons@watttieder.com)>  
**Sent:** Monday, November 7, 2022 6:23 PM  
**To:** Simmons, Justin <[jsimmons@woodsrogers.com](mailto:jsimmons@woodsrogers.com)>; Kathy Barnes <[kbarnes@watttieder.com](mailto:kbarnes@watttieder.com)>; Brandon Regan <[bregan@watttieder.com](mailto:bregan@watttieder.com)>; Edward Parrott <[eparrott@watttieder.com](mailto:eparrott@watttieder.com)>  
**Cc:** 'Conley, Todd' <[Todd.Conley@wbd-us.com](mailto:Todd.Conley@wbd-us.com)>; 'Golimowski, Jeff' <[Jeff.Golimowski@wbd-us.com](mailto:Jeff.Golimowski@wbd-us.com)>; Treece, Joshua <[jtreece@woodsrogers.com](mailto:jtreece@woodsrogers.com)>; Hollis, Jon <[jhollis@woodsrogers.com](mailto:jhollis@woodsrogers.com)>; Stemland, Karen <[kstemland@woodsrogers.com](mailto:kstemland@woodsrogers.com)>  
**Subject:** RE: BAE v. Fluor - Case No. 7:20-CV-00587 - First Round of Depositions

**\*\*EXTERNAL EMAIL\*\***

---

Justin –

Below is information related to the remaining Fluor witnesses requested by BAE:

Tom Moran is available for virtual deposition Dec 13-16.

Jim Worcester is available for virtual deposition Dec 9 or 23.

Tom D'Agostino is unavailable before November 21 and he travels quite a bit each month. He will need to be subpoenaed for deposition. Please contact Jeff Cottle regarding that process [jcottle@brownrudnick.com](mailto:jcottle@brownrudnick.com)

Kent Smith and Robert Griffith must be subpoenaed for deposition. Please coordinate that process with Kevin Muhlendorf [kMuhlendorf@wiley.law](mailto:kMuhlendorf@wiley.law)

BAE's assertion that it "may have to adjust its own deponents' availability" is simply a game. You have requested that we confirm dates for BAE's witnesses. We have done so. These depositions have been scheduled and Fluor will move forward. Please confirm the dates that you will take the depositions of Moran and Worcester.

Scott P. Fitzsimmons | Senior Partner

**WATT, TIEDER, HOFFAR & FITZGERALD, LLP**

WASHINGTON D.C. METRO | IRVINE | BOSTON | CHICAGO | MIAMI

1765 Greensboro Station Pl., Suite 1000

McLean, VA 22102 | **Bio**

p: 703-749-1081 | e: [sfitzsimmons@watttieder.com](mailto:sfitzsimmons@watttieder.com)

f: 703-893-8029 | w: [www.watttieder.com](http://www.watttieder.com)

---

**From:** Simmons, Justin <[jsimmons@woodsrogers.com](mailto:jsimmons@woodsrogers.com)>  
**Sent:** Sunday, November 6, 2022 3:36 PM  
**To:** Kathy Barnes <[kbarnes@watttieder.com](mailto:kbarnes@watttieder.com)>; Scott Fitzsimmons <[sfitzsimmons@watttieder.com](mailto:sfitzsimmons@watttieder.com)>; Sarah Bloom <[sbloom@watttieder.com](mailto:sbloom@watttieder.com)>; Brandon Regan <[bregan@watttieder.com](mailto:bregan@watttieder.com)>; Edward Parrott <[eparrott@watttieder.com](mailto:eparrott@watttieder.com)>  
**Cc:** 'Conley, Todd' <[Todd.Conley@wbd-us.com](mailto:Todd.Conley@wbd-us.com)>; 'Golimowski, Jeff' <[Jeff.Golimowski@wbd-us.com](mailto:Jeff.Golimowski@wbd-us.com)>; Treece, Joshua <[jtreece@woodsrogers.com](mailto:jtreece@woodsrogers.com)>; Hollis, Jon <[jhollis@woodsrogers.com](mailto:jhollis@woodsrogers.com)>; Stemland, Karen <[kstemland@woodsrogers.com](mailto:kstemland@woodsrogers.com)>  
**Subject:** RE: BAE v. Fluor - Case No. 7:20-CV-00587 - First Round of Depositions

**~>>>Alert: This is an external email, USE CAUTION when opening attachments and links.<<<~**

---

Hi, Kathy,

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

BAE SYSTEMS ORDNANCE  
SYSTEMS, INC.,

*Plaintiff/Counterclaim-  
Defendant,*

v.

FLUOR FEDERAL SOLUTIONS, LLC,

*Defendant/Counterclaim-  
Plaintiff.*

Case No. 7:20-cv-587

**NOTICE OF DEPOSITION OF THOMAS D'AGOSTINO**

PLEASE TAKE NOTICE that on Tuesday, December 20, 2022, beginning at 9:00 a.m., at the office of BAE Systems, Inc., 2941 Fairview Park Drive, Falls Church, VA 22042, Defendant BAE Systems Ordnance Systems, Inc., by counsel, will take the deposition of Thomas D'Agostino, upon oral examination, before a court reporter, videographer, and notary public, to be used for all purposes allowed under the Federal Rules of Civil Procedure. If, for any reason, the deposition is not then begun, or if begun and not completed, the taking thereof will be continued from time to time and place to place until complete.

Dated: November 14, 2022

BAE Systems Ordnance Systems, Inc.

/s/Justin E. Simmons  
Of Counsel

Todd M. Conley (VSB No. 89839)  
todd.conley@wbd-us.com  
Jeffrey J. Golimowski (VSB No. 93525)  
jeff.golimowski@wbd-us.com  
WOMBLE BOND DICKINSON (US) LLP  
8350 Broad Street, Suite 1500  
Tysons, VA 22102  
Telephone: (703) 394-2245  
Facsimile: (703) 918-2257

Joshua R. Treece (VSB No. 79149)  
jtreece@woodsrogers.com  
Justin E. Simmons (VSB No. 77319)  
jsimmons@woodsrogers.com  
WOODS ROGERS VANDEVENTER BLACK PLC  
10 South Jefferson Street, Suite 1800  
Roanoke, VA 24011  
Telephone: (540) 983-7600  
Facsimile: (540) 983-7711

Karen M. Stemland (VSB No. 47167)  
WOODS ROGERS VANDEVENTER BLACK PLC  
123 East Main Street, 5th Floor  
Charlottesville, VA 22902  
Telephone: (434) 220-6826  
Facsimile: (434) 566-0473  
kstemland@woodsrogers.com

Jon Hollis (VSB No. 84908)  
WOODS ROGERS VANDEVENTER BLACK PLC  
901 East Byrd Street, Suite 1550  
Richmond, VA 23219  
Telephone: (804) 343-5020  
Facsimile: (804) 343-5021  
jhollis@woodsrogers.com

*Counsel for BAE Systems Ordnance  
Systems, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on November 14, 2022, the foregoing notice was emailed to the following  
counsel of record:

Scott P. Fitzsimmons  
sfitzsimmons@watttieder.com  
Kathleen O. Barnes  
kbarnes@watttieder.com  
Edward J. Parrott  
eparrott@watttieder.com  
Sarah K. Bloom  
sbloom@watttieder.com  
Gregory M. Wagner  
gwagner@watttieder.com  
Brandon K. Regan  
bregan@watttieder.com  
WATT, TIEDER, HOFFAR &  
FITZGERALD, LLP  
1765 Greensboro Station Place  
Suite 1000  
McLean, Virginia 22102

*Counsel for Fluor Federal Solutions, LLC*

/s/Justin E. Simmons